

MORRIS LAW GROUP  
Robert McCoy, No. 9121  
Email: rrm@morrislawgroup.com  
Joni A. Jamison, No. 11614  
Email: jaj@morrislawgroup.com  
900 Bank of America Plaza  
300 South Fourth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 474-9400

LEE, HONG, DEGERMAN, KANG & WAIMEY  
Eric D. Olson (*pro hac vice*)  
Email: eolson@lhlaw.com  
3501 Jamboree Road, Suite 6000  
Newport Beach, California 92660  
Telephone: (949) 419-8713

DICKSTEIN SHAPIRO LLP  
Andrew M. Reidy (*pro hac vice*)  
Email: reidya@dicksteinshapiro.com  
Catherine J. Serafin (*pro hac vice*)  
Email: serafinc@dicksteinshapiro.com  
Joseph M. Saka (*pro hac vice*)  
Email: sakaj@dicksteinshapiro.com  
1825 Eye Street NW  
Washington, DC 20006  
Telephone: (202) 420-2200

Attorneys for Intervenor Federal Deposit  
Insurance Company as Receiver for  
Sun West Bank

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

PROGRESSIVE CASUALTY  
INSURANCE COMPANY,

Plaintiff,

v.

JACKIE K. DELANEY; LARRY E.  
CARTER; MARK A. STOUT;  
KENNETH TEMPLETON; JOHN

) Case No. 2:11-cv-00678-LRH-PAL

)  
)  
) **MOTION TO SEAL EXHIBIT 2**  
) **TO REPLY IN SUPPORT OF**  
) **MOTION TO COMPEL**  
) **DISCOVERY RESPONSES**  
) **FROM PROGRESSIVE**  
) **CASUALTY INSURANCE**  
) **COMPANY**

SHIVELY; STEPHEN C. KALB;  
 JEROME F. SNYDER; HUGH  
 TEMPLETON; and RICK  
 DRESCHLER,

Defendants.

Defendant Federal Deposit Insurance Corporation, as Receiver for Sun West Bank ("FDIC-R") moves the Court for an order sealing the concurrently filed Exhibit 2 (and attached exhibits) to the Reply in Support of Motion to Compel Discovery Responses from plaintiff Progressive Casualty Insurance Corporation ("Progressive") (#81). This motion is based on the following points and authorities.

MORRIS LAW GROUP

By /s/ Robert McCoy  
 Robert McCoy, No. 9121  
 Joni A. Jamison, No. 11614  
 900 Bank of America Plaza  
 300 South Fourth Street  
 Las Vegas, Nevada 89101

Attorneys for Intervenor Federal  
 Deposit Insurance Company as Receiver  
 for Sun West Bank

### POINTS AND AUTHORITIES

FDIC-R filed a motion to seal its motion to compel discovery responses from Progressive (#69), to comply with its obligations under the parties' Confidentiality Agreement and Stipulated Protective Order (#63) ("Confidentiality Agreement"). Because the documents attached to that motion were designated as "Confidential" by Progressive, the Court ordered Progressive to file a memorandum complying with *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), to show that good

1 cause exists to keep the documents filed under seal. *See* Order (#70).

2 Despite having designated the documents as "Confidential," Progressive  
3 filed a memorandum on November 22, 2013 stating that the motion and its  
4 exhibits do not need to remain under seal. *See* Pl's Memo. (#78).

5 Today, FDIC-R filed a reply in support of its motion to compel  
6 (#79). Attached as Exhibit 2 to the reply is the declaration of Joseph Saka,  
7 which contains certain exhibits (Exhibits R and S) produced by third party  
8 American Bankers Mutual Insurance ("ABMI") and designated as  
9 "Confidential" by ABMI under the Confidentiality Agreement. The  
10 declaration also discusses the content of these documents. Again, solely to  
11 comply with the parties' Confidentiality Agreement (#63), FDIC-R requests  
12 that Exhibit 2 to its reply be filed under seal until ABMI or Progressive has  
13 an opportunity to demonstrate that good cause exists to keep the  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 documents sealed. FDIC-R thus anticipates that either ABMI or  
2 Progressive will file a brief to support this argument.

3 MORRIS LAW GROUP

4  
5  
6 By /s/ Robert McCoy  
7 Robert McCoy, No. 9121  
8 Joni A. Jamison, No. 11614  
9 900 Bank of America Plaza  
10 300 South Fourth Street  
11 Las Vegas, Nevada 89101

12 LEE, HONG, DEGERMAN, KANG  
13 & WAIMEY  
14 Eric D. Olson (*pro hac vice*)  
15 3501 Jamboree Road, Suite 6000  
16 Newport Beach, California 92660

17 DICKSTEIN SHAPIRO LLP  
18 Andrew M. Reidy (*pro hac vice*)  
19 Catherine J. Serafin (*pro hac vice*)  
20 Joseph M. Saka (*pro hac vice*)  
21 1825 Eye Street NW  
22 Washington, DC 20006

23  
24 Attorneys for Intervenor Federal  
25 Deposit Insurance Company as Receiver  
26 for Sun West Bank  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of MORRIS LAW GROUP, and that the following documents were served via electronic service: **MOTION TO SEAL EXHIBIT 2 TO REPLY IN SUPPORT OF MOTION TO COMPEL DISCOVERY RESPONSES FROM PROGRESSIVE CASUALTY INSURANCE COMPANY**

TO:

Lewis K. Loss  
Email: lloss@tljlaw.com  
Matthew J. Dendinger  
Email: mdendinger@tljlaw.com  
Richard W. Boone, Jr.  
Email: rboone@tljlaw.com  
THOMPSON LOSS & JUDGE,  
LLP  
1133 21st Street, NW  
Washington, DC 20036

Kevin R. Stolworthy  
Email:  
kstolworthy@armstrongteasdale.com  
ARMSTRONG TEASDALE LLP  
3770 Howard Hughes Parkway  
Suite 200  
Las Vegas, Nevada 89169

*Attorneys for Defendants*

Thomas W. Davis, II  
Email: twd@h2law.com  
HOWARD & HOWARD  
3800 Howard Hughes Parkway  
Suite 1400  
Las Vegas, Nevada 89169

Attorneys for Plaintiffs

Dated this 3rd day of December, 2013.

By: /s/ Heather Suter